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September 27, 2000

RECORDATION NO.

23142

FILED

OCT 4 '00

2-13 PM

FILE NO. 010255-0112

**VIA FEDERAL EXPRESS**

Office of the Secretary  
Surface Transportation Board  
12<sup>th</sup> Street and Constitution Ave., N.W.  
Washington, D.C. 20423-0001

SURFACE TRANSPORTATION BOARD

Re: Security Agreement of Locomotive Equipment  
Burlington Northern and Santa Fe Railway Company  
and Navistar International Transportation Corporation  
n/k/a Navistar Truck and Engine Corporation (collectively "Grantees") and  
Iowa Interstate Railroad, Ltd., Grantor

Dear Secretary:

I have enclosed an original and one copy of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Security Agreement of locomotive equipment and is a primary document dated June 16, 2000. The names and addresses of the parties to the documents are as follows:

**Grantees:** Burlington Northern and Santa Fe Railway Company  
PMB #313  
101 West Chestnut  
Hinsdale, Illinois 60521-3387  
and  
Navistar International Truck and Engine Corporation  
455 North Cityfront Plaza Drive  
Chicago, Illinois 60611

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ORANGE COUNTY OFFICE  
650 TOWN CENTER DRIVE, SUITE 2000  
COSTA MESA, CALIFORNIA 92626-1925  
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SAN FRANCISCO, CALIFORNIA 94111-2562  
PHONE (415) 391-0600, FAX 395-8095

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75 WILLOW ROAD  
MENLO PARK, CALIFORNIA 94025-3656  
PHONE (650) 328-4600, FAX 463-2600

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20 CECIL STREET, #25-02/03/04  
THE EXCHANGE, SINGAPORE 049705  
PHONE + 65-536-1161, FAX 536-1171

TOKYO OFFICE  
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TOKYO 107-0052, JAPAN  
PHONE + 813-3423-3970, FAX 3423-3971

WASHINGTON, D.C. OFFICE  
1001 PENNSYLVANIA AVE., N.W., SUITE 1300  
WASHINGTON, D.C. 20004-2505  
PHONE (202) 637-2200, FAX 637-2201

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BOARD  
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Office of the Secretary  
September 27, 2000  
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**Grantor:** Iowa Interstate Railroad, Ltd.  
2920 Industrial Park Road  
Iowa City, IA 52240

A description of the equipment covered by the document follows:

<u>Unit No.</u>	<u>Type</u>	<u>General Description</u>
IAIS 600	GP-38	LOCOMOTIVE
IAIS 402	GP-10	LOCOMOTIVE

A fee of \$26.00 is enclosed. Please return the original after recordation to:

Elizabeth J. Burns  
Paralegal  
Latham & Watkins  
233 S. Wacker Drive  
Chicago, Illinois 60606

A short summary of the document to appear in the index follows:

A Security Agreement of locomotive equipment identified as one (1) locomotive, type GP-8, Locomotive, and one (1) locomotive type GP-38, Locomotive with Burlington Northern and Santa Fe Railway Company and Navistar International Transportation Company, as Grantees, and Iowa Interstate Railroad, Ltd., as Grantor.

Very truly yours,

BURLINGTON NORTHERN AND SANTA FE  
RAILWAY COMPANY AND NAVISTAR  
INTERNATIONAL TRANSPORTATION  
COMPANY, as Grantees

BY: Cary R. Perlman  
Cary Perlman of Latham & Watkins

ITS: Attorney and Agent in Fact

## SECURITY AGREEMENT

SECURITY AGREEMENT, dated as of June 16, 2000, between Iowa Interstate Railroad, Ltd., a Delaware corporation ("Grantor"), The Burlington Northern and Santa Fe Railway Company, a Delaware corporation ("BNSF"), and Navistar International Transportation Corporation, a Delaware corporation ("Navistar" and together with BNSF, the "Grantees")

### W I T N E S S E T H:

WHEREAS, Grantees filed a lawsuit against Grantor and Heartland Rail Corporation, an Iowa corporation ("Heartland", and together with Grantor, the "Heartland Parties"), in the United States District Court for the Central District of Illinois, Case No. 98-4094 (the "Lawsuit"); and

WHEREAS, the Lawsuit arises out of the alleged migration of substantial quantities of petroleum from the railyard currently owned and/or operated by the Heartland Parties (the "Heartland/Iowa Interstate Railyard") onto property owned by Grantees and, ultimately, into the Sylvan Slough; and

WHEREAS, the Heartland Parties have asserted counterclaims ("Counterclaims") against Grantees based on the alleged migration of petroleum from the properties owned and/or operated by Grantees onto the Heartland/Iowa Interstate Railyard; and

WHEREAS, the Heartland Parties and Grantees have resolved their respective claims and, concurrently herewith, Grantees and the Heartland Parties have each entered into that certain Settlement Agreement dated as of June 16, 2000 (as amended, the "Settlement Agreement") providing for the payment from the Heartland Parties to Grantees of the Settlement Amount as described in the Settlement Agreement and the release by Grantees and the Heartland Parties of their respective claims as described therein; and

WHEREAS, the Heartland Parties have agreed to pay the Settlement Amount must be paid over a series of consecutive months; and

WHEREAS, in order to induce Grantees to allow the Settlement Amount to be paid over a series of consecutive months, Grantees are requiring Grantor to enter into this Security Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

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OCT 4 '00 2-13 PM

SURFACE TRANSPORTATION BOARD

1. DEFINED TERMS. All undefined terms contained in this Security Agreement, unless the context indicates otherwise, have the meanings provided for by the Settlement Agreement to the extent the same are used or defined therein.

2. GRANT OF LIEN.

To induce Grantees to enter into the Settlement Agreement and to secure the payment of the Settlement Amount due from the Heartland Parties to Grantees pursuant to Section 1 thereof, Grantor hereby grants to Grantees a security interest in the equipment described on Schedule 1 (the "Equipment") hereto and all proceeds of such Equipment regardless of where located (all of which being hereinafter collectively referred to as the "Collateral"):

3. REPRESENTATIONS AND WARRANTIES. Grantor represents and warrants that:

(a) Grantor is the sole owner of each item of the Collateral upon which it purports to grant a lien hereunder, and has good title thereto free and clear of any and all liens except liens in favor of Grantees.

(b) No effective security agreement, financing statement, equivalent security or lien instrument or continuation statement covering all or any part of the Collateral is on file or of record in any public office, except such as may have been filed by Grantor in favor of Grantees pursuant to this Security Agreement.

(c) Grantor's chief executive office and principal place of business and location where Collateral is stored or located while not in use and the locations of all of its books and records concerning the Collateral are at Iowa City, Iowa.

(d) The Collateral is now and hereafter shall be, stored or located while not in use in the State of Iowa. In no event, however, shall the Collateral ever be used or located at a location outside of the United States without Grantees' prior written consent.

4. COVENANTS. Grantor covenants and agrees with Grantees, that from and after the date of this Security Agreement:

(a) Maintenance of Records. Grantor shall keep and maintain, at its own cost and expense, satisfactory and complete records of the Collateral. Upon non-payment of a payment due under the Settlement Agreement, Grantor shall mark its books and records pertaining to the Collateral to evidence this Security Agreement and the liens granted hereby.

(b) Limitation on Liens on Collateral. Grantor will not create, permit or suffer to exist, and will defend the Collateral against, and take such other action as is necessary to remove, any lien on the Collateral, and will defend the right, title and interest of Grantees in and to any of Grantor's rights under the Collateral against the claims and demands of all persons whomsoever.

(c) Limitations on Disposition. Until payment in full of the Settlement Amount or release of Collateral pursuant to the Settlement Agreement, Grantor will not sell, lease, transfer or otherwise dispose of any of the Collateral, or attempt or contract to do so except as permitted by Grantees.

(d) Further Identification of Collateral. Grantor will, if so requested by Grantees, furnish to Grantees, as often as Grantees reasonably request, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as Grantees may reasonably request, all in such detail as Grantees may reasonably specify.

(e) Notices. Grantor will advise Grantees promptly, in reasonable detail, (i) of any lien or claim made or asserted against any of the Collateral, and (ii) of the occurrence of any other event which would have a material adverse effect on the aggregate value of the Collateral or on the liens created hereunder.

5. SEVERABILITY. Whenever possible, each provision of this Security Agreement shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision of this Security Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Security Agreement.

6. REMEDIES. Upon nonpayment when due of the Settlement Amount pursuant to the Settlement Agreement including applicable opportunities to cure, Grantees may exercise all rights and remedies of a secured party and take full and complete title to the Collateral free and clear of any liens and claims.

7. NO WAIVER; CUMULATIVE REMEDIES. Grantees shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder, and no waiver shall be valid unless in writing, signed by Grantees and then only to the extent therein set forth. A waiver by Grantees of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Grantees would otherwise have had on any future occasion. No failure to exercise nor any delay in exercising on the part of Grantees, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or future exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by law. None of the terms or provisions of this Security Agreement may be waived, altered, modified or amended except by an instrument in writing, duly executed by Grantees.

8. LIMITATION BY LAW. All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Security Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Security Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

9. SUCCESSORS AND ASSIGNS. This Security Agreement and all obligations of Grantor hereunder shall be binding upon the successors and assigns of Grantor (including any debtor-in-possession on behalf of Grantor) and shall, together with the rights and remedies of Grantees, for the benefit of Grantees, hereunder, inure to the benefit of Grantees. Grantor may not assign, sell, hypothecate or otherwise transfer any interest in or obligation under this Security Agreement.

10. COUNTERPARTS. This Security Agreement may be executed in any number of separate counterparts, each of which shall collectively and separately constitute one and the same agreement.

11. GOVERNING LAW. IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS SECURITY AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THAT STATE, AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. GRANTOR HEREBY CONSENTS AND AGREES THAT THE STATE OR FEDERAL COURTS LOCATED IN COOK COUNTY, CITY OF CHICAGO, ILLINOIS, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN GRANTOR, AND GRANTEEES PERTAINING TO THIS SECURITY AGREEMENT OR TO ANY MATTER ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT, PROVIDED, THAT GRANTEEES AND GRANTOR ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF COOK COUNTY, CITY OF CHICAGO, ILLINOIS, AND, PROVIDED, FURTHER, NOTHING IN THIS AGREEMENT SHALL BE DEEMED OR OPERATE TO PRECLUDE GRANTEEES FROM BRINGING SUIT OR TAKING OTHER LEGAL ACTION IN ANY OTHER JURISDICTION TO REALIZE ON THE COLLATERAL, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF GRANTEEES. GRANTOR EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND GRANTOR HEREBY WAIVES ANY OBJECTION WHICH IT MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. GRANTOR HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINT AND OTHER PROCESS ISSUED IN ANY SUCH ACTION OR SUIT AND AGREES THAT SERVICE OF SUCH SUMMONS, COMPLAINTS AND OTHER PROCESS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO GRANTOR AT AND THAT

SERVICE SO MADE SHALL BE DEEMED COMPLETED UPON THE EARLIER OF ACTUAL RECEIPT THEREOF OR THREE (3) DAYS AFTER DEPOSIT IN THE U.S. MAIL, PROPER POSTAGE PREPAID.

12. WAIVER OF JURY TRIAL. BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX FINANCIAL TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE STATE AND FEDERAL LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT DISPUTES ARISING HEREUNDER OR RELATING HERETO BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OF ARBITRATION, THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, AMONG GRANTEEES, AND GRANTOR ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED IN CONNECTION WITH, THIS SECURITY AGREEMENT.

13. SECTION TITLES. The Section titles contained in this Security Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

14. NO STRICT CONSTRUCTION. The parties hereto have participated jointly in the negotiation and drafting of this Security Agreement. In the event an ambiguity or question of intent or interpretation arises, this Security Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Security Agreement.

15. ADVICE OF COUNSEL. Each of the parties represents to each other party hereto that it has discussed this Security Agreement and, specifically, the provisions of Section 11 and Section 12, with its counsel.

(signature page follows)

IN WITNESS WHEREOF, each of the parties hereto has caused this Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**IOWA INTERSTATE RAILROAD, LTD.**

By: 

Name: Jon R. Roy

Title: President & CEO

**NAVISTAR INTERNATIONAL  
TRANSPORTATION CORP.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY  
(n/k/a International Truck and Engine  
Corporation)**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



IN WITNESS WHEREOF, each of the parties hereto has caused this Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**IOWA INTERSTATE RAILROAD,  
LTD.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**NAVISTAR INTERNATIONAL  
TRANSPORTATION CORP. (n/k/a  
International Truck and Engine  
Corporation)**

By: Cary R. Perlman

Name: Cary R. Perlman

Title: Attorney for Navistar/International

**THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, each of the parties hereto has caused this Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**IOWA INTERSTATE RAILROAD,  
LTD.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**NAVISTAR INTERNATIONAL  
TRANSPORTATION CORP. (n/k/a  
International Truck and Engine  
Corporation)**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY**

By: James M. Johnson

Name: James M. Johnson

Title: Asst. VP

APPROVED AS TO FORM  
RA  
SENIOR GENERAL ATTORNEY

SCHEDULE 1

Locomotive Information:

Unit   **IAIS 600:**  
Model:               GP-38  
Built:                12/67  
Horsepower:        2000  
Prime Mover:        16-645E  
Main Gen:           D32B  
Aux Gen:            14KW  
Traction Motors:   D77 (4)

Unit   **IAIS 402:**  
Model:               GP-10  
Rebuilt:            6/72  
Horsepower:        1850  
Prime Mover:        16-567C  
Main Gen:           D12B  
Aux Gen:            10KW  
Traction Motors:   D77 (4)